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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,926	12/30/2004	Jean-Luc Carrez	MART0850US	3170

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LEVINE & MANDELBAUM
444 MADISON AVENUE
NEW YORK, NY 10022

EXAMINER	
BOUCHELLE, LAURA A	
ART UNIT	**PAPER NUMBER**
3763	
MAIL DATE	**DELIVERY MODE**
09/03/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/519,926	CARREZ ET AL.	
	Examiner	Art Unit	
	LAURA A. BOUCHELLE	3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 May 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1, 3-6, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Honebrink et al (US 6589262) in view of Falvai et al (US 5782807) in view of Mottola et al (US 5533986). Honebrink discloses a catheter introducing device comprising a needle 120 having a fixed hub 126, a cannula 140 having a longitudinal slit 222 for slidably receiving a catheter. The hub of the cannula has side teeth162 that cooperate with retaining tabs 134 on the front of the hub of the needle. The cooperating locks are releasable by relative rotation of the two hubs.

3. Claim 1 differs from Honebrink in calling for the hub and the shaft to be made of different synthetic resins. Honebrink is silent as to the materials used to form the device. Falvai teaches an insertion device formed of a synthetic resin. The shaft and the hub may be formed of different materials having different flexibilities (Col. 7, lines 22-26, 34-37). It is well known in the art to use synthetic resins to form medical devices because of the biocompatibility, durability, low cost and ease of manufacture. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Honebrink to be formed of a synthetic resin as taught by Falvai.

4. Claim 1 differs from Honebrink in calling for a longitudinal opening. Claim 6 calls for the opening to be normally narrower than the catheter, but expandable to enable the catheter to be passed through. Mottola teaches a catheter apparatus for delivering anesthetic agents having a

cannula 56 that has an opening 68 that allows the cannula to be removed and reattached to the catheter 14 without disturbing the catheter so that the physician may perform various procedures on the patient painlessly (col. 11, lines 35-52). See Fig. 6. therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Honebrink to include an opening instead of a splittable score line as taught by Mottola to allow the physician to remove and reattach the cannula over the catheter.

5. Claim 3 differs from Honebrink in calling for the shaft to be glued into the slit in the hub. This limitation is considered to be product by process claims. These claims are not limited to the manipulations of the recited steps, only the structure implied but the steps. The patentability of a product does not depend on its method of production. See MPEP 2113.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Honebrink in view of Falvai in view of Mottola in further view of Thompson et al (US 3827434).

7. Honebrink does not explicitly disclose the structure of the catheter. Thompson teaches a catheter insertion device comprising a catheter having a fixed hub 36 that allows the device to be releasably locked to the insertion member. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Honebrink to include a catheter with a hub as taught by Thompson so that the catheter can be releasably locked to the insertion member.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Honebrink in view of Falvai in view of Mottola in further view of Center (US 3682173).

9. Claim 8 differs from Honebrink in calling for a pack containing the catheter, needle, and cannula. Center teaches a catheter insertion device contained in a package so that the entire device can be sterilized and remains sterile until it is ready to be used. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Honebrink so that the device is contained in a package as taught by Center so that the device remains sterile before use.

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Honebrink in view of Falvai in view of Mottola in further view of Melsky (US 4973319).

11. Honebrink is silent as to the method of manufacturing the device as described in claim 9. Melsky teaches a method of manufacturing a slit valve catheter wherein one member is glued into another member and then the first member is slit by any appropriate means (Col.3, lines 49-50). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to glue the cannula of Honebrink into the slit hub and then slit the cannula as taught by Melsky.

Response to Arguments

12. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAURA A. BOUCHELLE whose telephone number is (571)272-2125. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763

Laura A Bouchelle
Examiner
Art Unit 3763

/L. A. B./
Examiner, Art Unit 3763